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Summary record of the 2271st meeting
Held at the Palais Wilson, Geneva, on Thursday, 6 February 2014, at 3 p.m.

Chairperson: Mr. Cali Tzay

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The meeting was called to order at 3 p.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

Sixteenth to nineteenth periodic reports of Belgium (CERD/C/BEL/16-19; CERD/C/BEL/Q/16-19)

1. *At the invitation of the Chairperson, the delegation of Belgium took places at the Committee table.*

2. **Ms. Lefrancq** (Belgium) said that, since 1981, Belgium had put in place a comprehensive legislative framework for fighting racial discrimination whose objective was to punish xenophobia, racism and various forms of discrimination by imposing penalties commensurate with the seriousness of the offence. A new law, adopted in January 2013, supplemented the legal arsenal by providing for heavier penalties in cases of murder or assault with a "discriminatory motive". Furthermore, the 2007 anti-discrimination laws would be reviewed and possibly amended following review by an expert commission and consultations with the Interfederal Centre for Equal Opportunities and Action to Combat Racism and Discrimination. National legislation did not ban organizations promoting racial hatred, but their members could be punished by the courts. A recent watershed in the fight against racial discrimination was the publication of joint circular No. 13/2013. Adopted in June 2013, it supplemented the anti-racial discrimination system and covered policy for investigating and prosecuting cases of Holocaust denial, discrimination and hate crimes, such as those based on nationality, skin colour, ancestry and national origin. The purpose of the circular was to standardize prosecution policies, improve the recording and identification of cases, better educate all concerned actors and foster information exchange. A coordinating judge ensured that the circular was properly implemented nationwide, with field support from specially trained police focal points. The circular stipulated that the police were obliged to draw up a detailed report when they found evidence of discrimination, that no case could be dismissed for discretionary reasons and that, in cases where charges were not laid, the suspect should nevertheless be systematically reminded that discrimination was an offence. Training of the various actors was also at the heart of the new system and the initial sessions for police officers, reference judges and judicial trainees had recently taken place.

3. Regarding case law on racism and xenophobia, most decisions resulted from the application of article 20 of the Antiracism Act, punishing incitement to hatred and discrimination, and of article 21, banning the dissemination of ideas based on racial superiority or hatred. Articles 20 and 21 had been applied by the Criminal Court of Antwerp in 2011 in a case involving a man who had posted offensive statements on his blog. Despite campaigns against anti-Semitism, the problem was growing on the Internet, leading the federal Government to strengthen its anti-Semitism monitoring unit, in 2012, by tightening security in the vicinity of places of worship and encouraging victims to file complaints. In 2012, the Centre for Equal Opportunities and Action to Combat Racism had processed 61 anti-Semitism cases, including 15 cases of verbal abuse, 11 of vandalism and 13 of Holocaust denial. In addition, during the Belgian presidency of the International Holocaust Remembrance Alliance in 2012–2013, the federal Government had inaugurated a museum commemorating Belgian Holocaust victims.

4. No court decisions had yet been handed down regarding Islamophobia, despite 220 cases being registered in 2012, but decisions were likely to be forthcoming. Providing general figures on racial discrimination, she said that the number of cases of racism or xenophobia brought before judicial bodies had fallen by 20 per cent between 2007 and 2011. Of the 4,951 cases brought before the judicial district of Brussels between 2007 and 2012, almost 82 per cent had been dismissed for technical reasons, namely, insufficient

evidence and expiration of the statute of limitations — a situation that joint circular No. 13/2013 should resolve — and less than 7 per cent, or 342 cases, had concerned crimes offences and offences of racial hatred. More than 70 per cent of cases heard in first instance had ended in conviction. It should be noted that, following a racially motivated murder in 2006, holding Belgian nationality was no longer a requirement for approaching the Commission for Financial Support for the Victims of Intentional Acts of Violence. Data on alleged discrimination by the police were incomplete but indicated an average of 90 complaints to the police oversight body between 2009 and 2012, several of which had been investigated, often ending in acquittal. Nevertheless, established offences did not go unpunished, as demonstrated by the case of a police officer who had been sentenced to 8 months' imprisonment for racially motivated violent acts. Considerable progress had been made in terms of police training in diversity and anti-discrimination, and the police training manual prepared by the European Union Agency for Fundamental Rights would be incorporated into police training.

5. Although some studies had found that the Belgian justice system treated foreign minors more harshly, judicial officers received training and information about discrimination issues, which should help change the situation. Given that the law prohibited the collection of data on the ethnic origin of detainees, it was not possible to provide the Committee with information apart from their nationality. The number of victims of trafficking had been relatively constant over the past few years. However, a new law, adopted in April 2013 as part of the National Action Plan against Trafficking 2012–2014, expanded the definition of trafficking to all forms of sexual exploitation and provided for the introduction of training for guardians assigned to unaccompanied foreign minors. Since 1 January 2014, Belgium had applied all the provisions of the Dublin III Regulation regarding detention conditions and services for asylum seekers. Detaining asylum seekers for the duration of the asylum process was not systematic and concerned only 2.6 per cent of them. Expulsions, whether in the form of repatriation or return, were independently monitored by the General Inspectorate of Federal and Local Police, which had never observed any acts of hatred during the execution of such measures. The information provided by some civil society organizations was inaccurate: the inspectorate had conducted 164 inspections in 2012 and over three quarters of the 5,742 expulsions had been voluntary and conducted without the use of force.

6. Social mixing in schools, based on equal access and treatment, was encouraged, and the integration of newly arrived students had been improved through the establishment of a support and education system. Furthermore, the Wallonia-Brussels Federation (the French Community) had set up a pilot project providing alternatives to formal education for unaccompanied foreign minors who were failing school, enabling them to take sandwich courses while learning French. Both the French and the Flemish Communities had taken steps to promote diversity in the media, in terms not only of television programming but also of staffing policy. Pursuant to the national strategy for the integration of the Roma, Flanders had adopted a strategic plan to improve the integration of travellers and the Roma into the labour market and society and to promote entrepreneurship. In the Brussels-Capital Region, measures had been taken to establish authorized areas for use by travellers and, more broadly, to educate local authorities about the needs of the Roma. Out of a desire to foster equal treatment of foreigners and fight xenophobia, Flanders had adopted a plan of action on integration policy for 2012–2015, focused on civic integration. The French Community had opted for social cohesion contracts based on educational support, literacy and newcomer integration, while the Walloon Government had adopted an equality plan in 2011, which targeted all forms of discrimination.

7. Belgium had made great strides in combating discrimination in employment. The conclusion of a new labour convention promoted equal treatment in every phase of labour relations and the Centre for Equal Opportunities and Action to Combat Racism had

launched a labour force diversity barometer. Following a recent study by the Organization for Economic Cooperation and Development which had painted an unflattering portrait of the situation of migrants in Belgium, the Flemish Government had adopted a decree in June 2013 on the integration of foreigners. The courts regularly punished cases of racial discrimination in the workplace. Wearing a headscarf did not disqualify women from submitting applications to the selection board of the federal administration, whose diversity unit ensured equal opportunity for all at the recruitment level. It was only at the hiring stage that the wearing of religious signs had to be verified as complying with labour regulations. Belgium had not yet been able to establish a national human rights institution owing to the complexity of its institutional structure, but the process was ongoing. The new Interfederal Centre for Equal Opportunities and Action to Combat Racism and Discrimination would be operational within the next few weeks, which should speed up the establishment of a national institution. The Federal Plan on Racism, Anti-Semitism and Xenophobia, adopted in 2004, came under the jurisdiction of all the federated entities; its results would have to be evaluated before a new plan could be put forward.

8. **Mr. Vázquez** (Country Rapporteur) commended the establishment of the Centre for Equal Opportunities and Action to Combat Racism, but regretted the fact that it had merely received "B" status because of its limited mandate and lack of jurisdiction in matters of language-related discrimination. Although he recognized the sensitivity of the issue in Belgium and its likely contribution to the non-ratification of the Framework Convention for the Protection of National Minorities, the Committee was particularly concerned by it because of the links between language-related discrimination and discrimination on the grounds of ethnicity or national origin. He wished to know when the State party planned to establish a national human rights institution in line with the Paris Principles and what was hindering the adoption of a national action plan on racism. He noted with satisfaction that the Centre for Equal Opportunities and Action to Combat Racism had been given the added responsibility of monitoring discrimination at the regional, local and federal levels. However, it was of concern that its jurisdiction over immigration affairs had been transferred to the Federal Centre for the Analysis of Migratory Flows, which had no authority at the interfederal level and whose board was appointed by the Government. The new structure should work closely with the Centre for Equal Opportunities and Action to Combat Racism, which had a breadth of experience in that area. According to one of the Centre's studies, structural discrimination — which one NGO called ethno-stratification — did exist in employment in Belgium since the best-paid jobs were clearly held by Belgian nationals. Moreover, given that 25 per cent of the complaints received by the Centre related to discrimination in employment, it was reasonable to conclude that direct and indirect discrimination also occurred in that area. Special measures should be taken to resolve the situation.

9. He expressed concern at the failure of employers to accommodate religious practices and authorize women who interacted with the public to wear a headscarf. Some claimed that the policy was designed to please customers who did not wish to interact with persons from particular ethnic groups. It would be interesting to know whether the State party intended to revoke the policy in light of the recent ruling of the European Court of Human Rights in *Eweida v. the United Kingdom*. Contrary to what was tolerated in Walloon schools, headscarves were completely banned in Flemish educational establishments, depriving girls from religious minorities of their right to access education. The policy raised serious issues in terms of compliance not only with Belgian constitutional provisions and the international instruments regarding freedom of religion and the right to education, but also with the Convention. It would be interesting to know why wearing a burka in public had been made a criminal offence. The blanket ban appeared symptomatic of a deeper problem, namely, Islamophobia, as had been confirmed by a recent study on tolerance conducted by the Centre, which had found that Maghreb persons were systematically

considered as more vulgar, lazier, inferior to and more unreliable than other minority groups. Racism in Belgium increasingly manifested itself through Islamophobia and anti-Semitism. The Government had set up an anti-Semitism monitoring unit, but did it intend to establish a similar body to combat Islamophobia?

10. Regarding the criminal justice system, he wished to know what efforts the State party was making to address the concern that foreigners were sentenced to longer terms than Belgians and the overrepresentation of non-national minors in the criminal justice system. The State party should review its policy of systematically detaining asylum seekers at the border, a measure that should only be imposed under extraordinary circumstances and as a last resort. The European Court of Human Rights had found that the systematic violence committed by Belgian police against members of minorities violated several articles of the European Convention on Human Rights, which had been confirmed in a study by the Centre indicating that police officers still had stereotypical attitudes towards Muslims. Excessive use of force was allegedly also an issue in expulsions, particularly given that the General Inspectorate of Federal and Local Police clearly lacked the independence or resources to oversee all expulsions. Did the State party plan to release the 2012 investigation report by the General Inspectorate? The periodic report under consideration stated that very few complaints had been filed against police officers for their conduct during expulsions, but the lack of complaints was not necessarily a positive sign and could indicate distrust of the police and judicial authorities or poor knowledge of the law.

11. Belgian laws on naturalization had been made stricter, creating an extra hurdle for the integration of immigrants. Not only was the new obligation to have worked 468 days in the country in order to be naturalized particularly problematic for women, it also created a regrettable vicious circle that made the acquisition of nationality conditional on employment. The Government had adopted a national strategy for the integration of the Roma, which appeared to have gaps in the areas of education, health, employment and housing and to lack quantifiable objectives and indicators for assessing its effectiveness. The European Committee of Social Rights considered that Belgian legislation on travellers breached several provisions of the European Social Charter. The State party should formulate a policy to fight social exclusion of that population group.

12. **Ms. Dah** said that she could not understand why Belgium, which had been so involved in the fight against racism and the World Conference against Racism in Durban, had failed both to adopt a national action plan against racism and to establish a national human rights institution in line with the Paris Principles, and wondered whether that might not be because of its institutional complexity. The State party should ensure that the national human rights institution that it claimed to be planning fulfilled the main mission of that type of entity and had the same powers as its foreign counterparts. She also wondered about the wisdom of the decisions to take away some of the prerogatives and responsibilities of the Centre for Equal Opportunities and Action to Combat Racism and to separate immigration from all the other issues pertaining to foreigners, as they did not appear to help Belgium effectively combat racial discrimination. She recommended that the State party should review its interpretation of article 3 of the Convention in light of the Committee's general comment No. 14. As she understood it, only women victims of human trafficking who agreed to cooperate with the police and the judicial authorities were provided with protection in Belgium; in her view, the State party ought to consider dissociating cooperation with the authorities from the protection to which all victims should be entitled.

13. **Mr. Avtonomov** asked whether the bill amending the conditions for acquiring nationality, approved by the House of Representatives in 2012, had been adopted. He wished to know whether the German-speaking community had special programmes to

promote the integration of Roma and foreigners through German classes and whether there were programmes enabling French, Dutch and German speakers to receive instruction in their mother tongue when they lived in another linguistic region. Lastly, he asked whether the Government intended to ratify the International Labour Organization Domestic Workers Convention, 2011 (No. 189).

14. **Mr. Murillo Martínez**, noting with satisfaction the inauguration of the Holocaust and Human Rights Museum during the reporting period, asked whether, as part of the International Decade for People of African Descent, exhibitions might not be held for other victims of past mass violations of the Convention, including persons of African descent. He requested disaggregated data on the nationality of trafficking victims and asked whether, given the vulnerability of such individuals, the burden of proof was shifted to the accused in proceedings.

15. **Mr. Yeung Sik Yuen**, referring to paragraph 34 of the report, enquired whether victims of racial discrimination who had obtained statutory damages after an injunction but thought the amount too low could request a substantive review of their case in the hope of being awarded greater compensation. He asked whether, in the English version of paragraph 45, the expression "otherness in diversity" should read "togetherness in diversity" instead. Lastly, he wished to know whether the spokesperson for the radical Salafist organization Sharia4Belgium, who had been convicted in absentia in 2012 and sentenced to 2 years' imprisonment for incitement to hatred of non-Muslims, had served his sentence.

16. **Mr. Khalaf** asked what authorities — federal or regional — were responsible for deciding to place and hold a foreigner in the transit area of a regional airport. An explanation of the expression "presumed race" in paragraph 18 of the report would be welcome. Noting the clear distinction made in the report between discrimination and racial discrimination, he wished to know whether, in the State party's view, those concepts were mutually exclusive, complementary or interdependent.

17. **Mr. Diaconu** asked whether preference given to individuals on the basis of their national or ethnic origin was covered by national legislation and why Belgium had not yet acceded to Protocol No. 12 to the European Convention on Human Rights. He requested an explanation of the word "special", as used in article 21 of the 2007 Act amending the 1981 Act criminalizing manifestations of racism and xenophobia, which punished the dissemination of ideas based on racial superiority or hatred, provided that there was "special intent". He was surprised to note that no individual communications had yet been submitted to the Committee under article 14 of the Convention. He invited the delegation to comment on that fact as well as to indicate whether certain groups benefited from special measures such as those provided for in article 2 of the Convention and how effective policies promoting diversity in the civil service had been by providing data on the representation of minorities. He also requested statistics on stateless persons living in Belgium and a description of the measures taken to address their situation. Given that in the Flemish Community 8 out of 10 children spoke Turkish, Arabic or Berber at home, he asked why the authorities had terminated all projects giving those children the opportunity to study in their language. Lastly, he wished to know whether Belgium might withdraw its interpretative declaration regarding article 4 of the Convention since the provisions of that article were more than covered by national legislation such that it was no longer justified to uphold the declaration.

18. **Mr. Lindgren Alves**, noting that Holocaust denial was prohibited in the State party, asked whether the denial of other internationally recognized genocides, including that of Srebrenica, was also banned. He wished to know whether, from the State party's point of view, Flemish and Walloons were distinct national minorities or whether they were simply

population groups who defined themselves by reference to their linguistic region and a number of cultural differences.

19. **Ms. Crickley** enquired why jurisdiction over immigration matters had been transferred from the Centre for Equal Opportunities and Action to Combat Racism to a federal body. She asked what measures the State party had taken to ensure that foreigner integration programmes adopted pursuant to European directives did not pave the way for assimilation. She also asked what objectives had been defined in the national strategy for the integration of the Roma for 2016, what events the Government was planning for the International Decade for People of African Descent and how it intended to cooperate with civil society to follow up on the Committee's future concluding observations.

The meeting rose at 6 p.m.